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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,243	06/05/2001	Thomas H. Stockmann	A882688US	5963
7590 05/11/2006			EXAMINER	
D. DOAK HORNE c/o GOWLING LAFLEUR HENDERSON SUITE 1400 700 - 2ND STREET S.W. CALGARY, AB T2P 4V5 CANADA			KRUER, STEFAN	
			ART UNIT	PAPER NUMBER
			3654	
			DATE MAILED: 05/11/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/873,243	STOCKMANN, THOMAS H.	
	Examiner	Art Unit	
	Stefan Kruer	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 46 is/are pending in the application.
- 4a) Of the above claim(s) 1 - 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22 - 24, 26, 28 - 30, 32, 34 - 36, 38, 40 - 43 and 45 is/are rejected.
- 7) ☒ Claim(s) 25, 27, 31, 33, 37, 39, 44 and 46 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/5/01 + 4/16/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

Claims 22, 28, 34 and 40 are objected to because of the following informalities:

- "situate" should be written as "situated"

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22 – 24, 28 – 30 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Mifsud (4,161,229).

Re: Claim 22, Mifsud discloses his positive displacement valve (22) comprising:

- a pair of longitudinally-moveable, spaced-apart pistons (300, 305),
- each piston operatively connected by a longitudinal shaft means (as in Fig. 3), so that the movement of one piston causes an equal movement of the other,
- each piston situated within a corresponding cylinder member (A, B),
- said cylinder members arranged in a juxtaposed relation to each other,
- said cylinder members having mutually opposes ends and an aperture (71, 77) proximate each of the opposite ends thereof so as to permit ingress and egress of pressurized hydraulic fluid,
- a piston phasing means (50a, 50b) integral with cylinder member (A).

Re: Claims 23 and 29, Mifsud discloses his positive displacement valve (22) wherein said piston phasing means comprise a pair of apertures (71, 73 and 75, 77) in the cylinder members (A, B), spaced apart from each other on the longitudinal axis, proximate the ends of the cylinder members.

Re: Claim 24 and 30, Mifsud discloses his positive displacement valve (22) wherein said piston phasing means comprise a pair of apertures (7x, 7x) in each of the cylinder members (A, B), spaced apart from each other, and situated proximate the ends of the cylinder members.

Re: Claim 28, Mifsud discloses his positive displacement and piston phasing means, as reviewed in Claim 22, as well as:

- a platform member (2) having two opposite side edges,
- first and second hydraulic cylinders (5, 7) each having a piston member (302, 301) therein,
- said hydraulic cylinders operatively coupled to a side edge of said platform,
- and a pump means (20, "hydraulic high pressure source" (Col. 4, Line 4).

Re: Claim 34, Mifsud discloses his positive displacement means, platform member, hydraulic cylinders, and pump means, as reviewed in Claim 22, as well as his piston phasing means (24) integral with both of the hydraulic cylinders.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mifsud in view of Colarelli et al (6,189,432).

Mifsud is silent regarding check valves to avert reverse flow. Attention is directed to Colarelli et al who teach their check valve (40) proximate their positive displacement valve (38) and in fluid communication with one of the pair of apertures for checking reverse fluid flow.

It would have been obvious to one of ordinary skill in the art to modify the invention of Mifsud with the teaching of Colarelli et al to promote phasing of the cylinders as well as maintaining elevated position(s) of the platform.

Claim 35 – 36, 38, 40 – 43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mifsud in view of Kucera (4,665,031).

Re: Claims 35 and 36, Mifsud discloses his piston phasing means comprising a pair of apertures (74, 72 and 70, 76, cylinders 7 and 5 respectively), spaced apart along a longitudinal axis, and proximate at least one end of the hydraulic cylinders. Kucera teaches further his piston phasing means (40L, 41L, Fig. 3) comprising a pair of apertures that are spaced apart along said axis and proximate the ends of the cylinders.

It would have been obvious to one of ordinary skill in the art to modify the piston phasing means of Mifsud as furthered by Kucera to enable a synchronized extension, retraction and/or fixed-positioning of an elevating member, for safety and utility.

Re: Claim 38, Kucera teaches his check valve (45) in fluid communication with one of the pair of apertures for restricting reverse flow. It would have been obvious to one of ordinary skill in the art to modify the invention of Mifsud with the teaching of Kucera to promote phasing of the cylinders as well as maintaining elevated position of the platform, the latter in case of power failure or E-shutoff, for performance and safety.

Re: Claims 40 – 43 and 45, Mifsud discloses:

- **Re: Claim 40**, his positive displacement means, platform member, first and second hydraulic cylinders, and pump means, as reviewed in Claims 22, as well as his piston phasing means (50a-d and 24) integral with both the cylinder members and hydraulic cylinders, as reviewed in Claims 22 and 34, respectively.
- **Re: Claims 41 - 43**, and as reviewed in Claims 23, 29 and 35, his piston phasing means comprising a pair of apertures (74, 72 and 70, 76) and (71, 73 and 75, 77) in the hydraulic cylinders (7, 5) and cylinder members (A, B), respectively, spaced apart from each other on the longitudinal axis, and proximate the ends of the respective hydraulic cylinders and cylinder members.

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- **Re: Claim 45**, and as reviewed in Claim 38, Kucera teaches Kucera teaches his check valve (45) in fluid communication with one of the pair of apertures for restricting reverse flow. It would have been obvious to one of ordinary skill in the art to modify the invention of Mifsud with the teaching of Kucera to promote phasing of the cylinders as well as maintaining elevated position of the platform, the latter in case of power failure or E-shutoff, for performance and safety.

Allowable Subject Matter

Claims 25, 27, 31, 33, 37, 39, 44 and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 25, 31, 33, 37, 39, 44 and 46 contain allowable subject matter because the teachings of the prior art of record taken as a whole do not show or render obvious the combination set forth including the "...wherein the one of the pair of apertures... is larger in area than the other of the pair of apertures".

Claim 27 contains allowable subject matter because the teachings of the prior art of record taken as a whole do not show or render obvious the combination set forth including the "...wherein the one of the pair of apertures is the aperture most remote from the end of the at least one of the cylinder members..."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tsymborov (5,012,898) and Bettin et al (4,665,031) are cited for reference of control systems for hydraulically operable lifts incorporating phasing means for uniform travel of hydraulic cylinders of parallel operation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F, 09:00 - 18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571.272.6951. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK

8 May 2006



KATHY MATECKI
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